

BEFORE THE
BOARD OF ACCOUNTANCY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

CM JUL 30 2001
CA BOARD OF ACCOUNTANCY

In the Matter of the Petition to Revoke
Probation Against:

STUART D. KRAMER
13385 Calle Colina
Poway, California 92064-1606
Certified Public Accountant No. 36758

Respondent.

Case No. D1-2000-7


**ORDER AFTER
DEFAULT DECISION**

The probation granted to Respondent Stuart D. Kramer in the Board's Decision and Order issued on August 2, 2000, effective on September 1, 2000, is revoked. Certified Public Accountant Certificate number 36758, heretofore issued to Respondent Stuart D. Kramer, is hereby revoked.

Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a written motion requesting that the Decision be vacated and stating the grounds relied on within seven (7) days after service of the Decision on Respondent. The agency in its discretion may vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

This Decision shall become effective on September 1st, 2001.

It is so ORDERED August 2, 2001.



FOR THE BOARD OF ACCOUNTANCY
DEPARTMENT OF CONSUMER AFFAIRS

1 BILL LOCKYER, Attorney General
of the State of California
2 LINDA K. SCHNEIDER, State Bar No. 101336
Deputy Attorney General
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7 Attorneys for Complainant
8
9

10 **BEFORE THE**
BOARD OF ACCOUNTANCY
11 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA
12

13 In the Matter of the Petition to Revoke
Probation Against:

14 STUART D. KRAMER, CPA
15 13385 Calle Colina
Poway, California 92064-1606
16 Certified Public Accountant No. 36758

17 Respondent.
18
19

Case No. D1-2000-7

DEFAULT DECISION
AND ORDER

[Government Code § 11520]

20 1. On or about May 2, 2001, Complainant Carol B. Sigmann, in her official
21 capacity as Executive Officer of the Board of Accountancy, Department of Consumer Affairs,
22 State of California, filed a Petition to Revoke Probation in Case No. D1-2000-7 against Stuart D.
23 Kramer ("Respondent") before the Board of Accountancy (the "Board").

24 2. On or about January 28, 1983, the Board of Accountancy issued Certified
25 Public Accountant Number 36758 to Respondent. The Certified Public Accountant permit
26 expired on November 1, 1995. The permit was renewed in an inactive status on April 24, 2000,
27 and will expire on November 1, 2001, unless renewed.

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FINDINGS OF FACT

3. On or about May 17, 2001, Veronica Cruz, an employee of the Department of Justice, served by certified and first class mail a copy of the Petition to Revoke Probation in Case No. D1-2000-7, Statement to Respondent, blank Notice of Defense, Request for Discovery, and Government Code sections 11507.5, 11507.6, and 11507.7 to Respondent's address of record with the Board, which was and is 13385 Calle Colina, Poway, California 92064-1606. A copy of the Petition to Revoke Probation, the associated supplemental documents and Declaration of Service are attached hereto as "Exhibit A," and they are incorporated as if fully set forth herein.

4. On May 26, 2001, the certified mail return receipt card was signed by Respondent which acknowledged receipt of the documents mailed to him by the Department of Justice.

5. The above-described service of the Petition to Revoke Probation was effective as a matter of law pursuant to the provisions of Government Code section 11505, subdivision (c).

6. Government Code section 11506 states, in pertinent part:

"(c) The respondent shall be entitled to a hearing on the merits if the respondent files a notice of defense, and the notice shall be deemed a specific denial of all parts of the accusation not expressly admitted. Failure to file a notice of defense shall constitute a waiver of respondent's right to a hearing, but the agency in its discretion may nevertheless grant a hearing."

7. Respondent failed to file a Notice of Defense within 15 days after service upon him of the Petition to Revoke Probation and therefore waived his right to a hearing on the merits of the Petition to Revoke Probation in Case No. D1-2000-7.

8. California Government Code section 11520 states, in pertinent part:

"(a) If the respondent either fails to file a notice of defense or to appear at the hearing, the agency may take action based upon the respondent's express admissions or upon other evidence and affidavits may be used as evidence without any notice to respondent;"

9. Pursuant to its authority under Government Code section 11520, the Board finds the Respondent is in default. The Board will take action without further hearing, based on Respondent's express admissions by way of default and the evidence before it, including Exhibit A, and finds that the allegations, and each of them, in the Petition to Revoke Probation in Case No. D1-2000-7 are true.

DETERMINATION OF ISSUES

1. Based on the foregoing findings of fact, Respondent Stuart D. Kramer has subjected his Certified Public Accountant Certificate No. 36758 to discipline.

2. Service of the Petition to Revoke Probation in Case No. D1-2000-7 and related documents was proper and in accordance with the law.

3. The agency has jurisdiction to adjudicate this case by default.

4. The Board is authorized to revoke Respondent's Certified Public Accountant Certificate based upon the following violations alleged in the Petition to Revoke Probation:

a. Respondent's permit is subject to discipline pursuant to Code section 5100, in that he violated his probation by failing to submit quarterly reports to the Board as was required by Probation Condition 2 of the Disciplinary Order previously imposed upon Respondent.

b. Respondent's permit is subject to discipline pursuant to Code section 5100, in that he violated his probation by failing to pay cost reimbursement to the Board, or perform community service in lieu of cost reimbursement to the Board, as was required by Probation Condition 10 of the Disciplinary Order previously imposed upon Respondent.

This Default Decision will be submitted to the Board for its approval, upon which the Board may enter its Order revoking Certified Public Accountant number 36758 heretofore issued to Respondent Stuart D. Kramer, CPA.

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of the State of California
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Deputy Attorney General
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10 **BEFORE THE**
BOARD OF ACCOUNTANCY
11 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA
12

13 In the Matter of the Petition to Revoke Probation
Against:

Case No. D1-2000-7

**PETITION TO REVOKE
PROBATION**

15 STUART D. KRAMER, CPA
13385 Calle Colina
16 Poway, California 92064-1606
17 Certified Public Accountant No. 36758

18 Respondent.
19

20 Complainant alleges:

21 **PARTIES**

22 1. Carol B. Sigmann ("Complainant") brings this Petition to Revoke
23 Probation solely in her official capacity as the Executive Officer of the Board of Accountancy,
24 Department of Consumer Affairs.

25 2. On or about January 28, 1983, the Board of Accountancy issued Certified
26 Public Accountant Number 36758 to Stuart D. Kramer, CPA ("Respondent"). The accountant's
27 permit expired on November 1, 1995. The permit was renewed in an inactive status on April 24,
28 2000, and will expire on November 1, 2001, unless renewed.

1 3. In a disciplinary action entitled "*In the Matter of Accusation Against*
2 *Stuart D. Kramer*, CPA, Case No. AC-2000-7, the Board of Accountancy ("Board") issued a
3 decision, effective September 1, 2000, in which Respondent's Certified Public Accountant permit
4 was revoked. However, the revocation was stayed and Respondent's permit was placed on
5 probation for a period of three (3) years with certain terms and conditions. A copy of that
6 decision is attached as Exhibit "A" and is incorporated by reference.

7 JURISDICTION

8 4. This Petition to Revoke Probation is brought before the Board of
9 Accountancy ("Board") under the authority of the following sections of the Business and
10 Professions Code ("Code").

11 5. Section 5100 of the Code states that after notice and hearing the board
12 may revoke, suspend or refuse to renew any permit or certificate granted under Article 4
13 (commencing with Section 5070) and Article 5 (commencing with Section 5080), or may censure
14 the holder of that permit or certificate for unprofessional conduct.

15 6. Section 118, subdivision (b), of the Code provides that the suspension,
16 expiration, surrender or cancellation of a license shall not deprive the Board of jurisdiction to
17 proceed with a disciplinary action during the period within which the license may be renewed,
18 restored, reissued or reinstated.

19 FIRST CAUSE TO REVOKE PROBATION

20 (Failure to Submit Quarterly Reports)

21 7. Respondent's probation is subject to revocation because he failed to
22 comply with Probation Condition 2. The facts and circumstances regarding this violation are as
23 follows:

24 A. Probation Condition 2 of the Disciplinary Order requiring
25 Respondent to comply with probation states:

26 "SUBMIT WRITTEN REPORTS: Respondent, within 10 days
27 of completion of the quarter, shall submit quarterly written reports to the Board on
28 a form obtained from the Board. The respondent shall submit such written reports

1 and other declarations and verification of actions under penalty of perjury as are
2 required. These declarations shall contain statements relative to respondent's
3 compliance with all the terms and conditions of probation. Respondent shall
4 immediately execute all release of information forms as may be required by the
5 Board or its representatives."

6 B. Respondent was required to submit quarterly reports to the Board
7 which were due on October 10, 2000, January 10, 2001 and April 10, 2001. Respondent has not
8 submitted the quarterly reports.

9 SECOND CAUSE TO REVOKE PROBATION

10 (Failure to Pay Cost Reimbursement or Perform Community Service)

11 8. Respondent's probation is subject to revocation because he failed to
12 comply with Probation Condition 10. The facts and circumstances regarding this violation are as
13 follows:

14 A. Probation Condition 10 of the Disciplinary Order requiring
15 Respondent to comply with probation states:

16 "COST REIMBURSEMENT OR COMMUNITY SERVICE

17 Respondent shall reimburse the Board \$7,912.00 for its
18 investigation and prosecution costs. Payment shall be made in eight equal
19 installments along with respondent's quarterly written reports; the final payment
20 being made with the 8th quarterly report.

21 If respondent provides evidence of financial hardship that is
22 satisfactory to the Board, the Board may, in its discretion, allow respondent to
23 complete 100 hours of community service in lieu of cost reimbursement to the Board.

24 In the event the Board approves community service in lieu of cost
25 reimbursement, then respondent shall participate in a community service program
26 as directed by the Board or its designee in which respondent provides free
27 professional services on a regular basis to a community or charitable facility or
28 agency, amounting to a minimum of 100 hours. Such service shall begin no later

1 than 60 days after respondent is notified of the program and shall be completed no
2 later than 1 (one) year from the effective date of this order. Respondent is entirely
3 responsible for his performance in the program and the Board assumes neither
4 express nor implied responsibility for respondent's performance nor for the
5 product or services rendered."

6 B. Respondent was required to pay quarterly installments in the
7 amount of \$989.00 each to the Board for reimbursement of costs on October 10, 2000, January
8 10, 2001 and April 10, 2001. Respondent has not made any payments to the Board.

9 C. As an alternative to payment of costs to the Board, Condition 10
10 allowed Respondent the option of submitting evidence of financial hardship satisfactory to the
11 Board and to request community service in lieu of cost reimbursement to the Board. Respondent
12 has not submitted any evidence of financial hardship to the Board and has not requested
13 consideration for community service.

14 DISCIPLINE CONSIDERATIONS

15 9. To determine the degree of discipline, if any, to be imposed on
16 Respondent, Complainant alleges that on or about September 1, 2000, in a prior disciplinary
17 action entitled *In the Matter of the Accusation Against Stuart D. Kramer, CPA* before the Board
18 in Case No. AC-2000-7, Respondent's license was revoked. However the revocation was stayed
19 and Respondent was placed on probation for three (3) years on terms and conditions.

20 Discipline was imposed pursuant to Code section 5050 in that, during a
21 time period in which respondent did not have a valid permit, he practiced public accountancy,
22 Code section 5100(c) for gross negligence, Code section 5100(f) for willfully violating Code
23 section 5037(b) in conjunction with CCR section 68 in failing to return a client's records to him,
24 Code section 5060 for holding himself out to the public under a name other than his own name,
25 and Code section 5100(f) for violation of CCR section 52.1 in failing to appear at an
26 Administrative Committee Investigative Hearing.

27 That decision is now final and is incorporated by reference as if fully set
28 forth.

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PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Accountancy issue a decision:

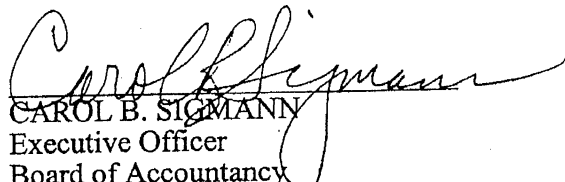
1. Revoking the probation that was granted by the Board of Accountancy in Case Number AC-2000-7 and imposing the disciplinary order that was stayed thereby revoking Certified Public Accountant Number 36758 issued to Stuart D. Kramer, CPA;

2. Revoking or suspending Certified Public Accountant Number 36758, issued to Stuart D. Kramer, CPA;

3. Imposing otherwise appropriate discipline on Certified Public Accountant Number 36758 issued to Stuart D. Kramer, CPA

4. Taking such other and further action as deemed necessary and proper.

DATED: May 2, 2001.


CAROL B. SIGMANN
Executive Officer
Board of Accountancy
Department of Consumer Affairs
State of California
Complainant

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BEFORE THE
BOARD OF ACCOUNTANCY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

STUART D. KRAMER, CPA

Respondent.

Case No. AC-2000-7

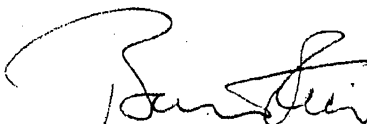
OAH No. L-2000030356

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Board of Accountancy of the Department of Consumer Affairs, as its Decision in the above entitled matter.

This Decision shall become effective on September 1, 2000.

It is so ORDERED August 2, 2000.



FOR THE BOARD OF ACCOUNTANCY
DEPARTMENT OF CONSUMER AFFAIRS

1 BILL LOCKYER, Attorney General
of the State of California
2 LINDA K. SCHNEIDER, State Bar No. 101336
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10 **BEFORE THE**
BOARD OF ACCOUNTANCY
11 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA
12

13 In the Matter of the Accusation Against:

14 STUART D. KRAMER, CPA

15 Respondent.
16
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Case No. AC-2000-7

OAH No. L-2000030356

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

18
19 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the
20 above-entitled proceedings that the following matters are true:

21 PARTIES

22 1. Complainant Carol B. Sigmann is the Executive Officer of the Board of
23 Accountancy who brought this action solely in her official capacity and is represented in this
24 matter by Bill Lockyer, Attorney General of the State of California, by Linda K. Schneider,
25 Deputy Attorney General.

26 2. Respondent is representing himself in these proceeding and has chosen not
27 to exercise his right to be represented by counsel at his own expense.

28 3. On or about January 28, 1983, the Board of Accountancy issued Certified

1 Public Accountant Number 36758 to Stuart D. Kramer, CPA ("Respondent"). Said certificate
2 expired and was not valid, during the following time periods: November 28, 1991, November 1,
3 1993 through July 11, 1994. Said certificate expired on November 1, 1995, and has not been
4 renewed.

5 JURISDICTION

6 4. Accusation, No. AC-2000-7, was filed before the Board of Accountancy
7 of the Department of Consumer Affairs, ("Board"), and is currently pending against Respondent.
8 The Accusation, together with all other statutorily required documents, was duly served on
9 Respondent on January 18, 2000, and Respondent filed a Notice of Defense contesting the
10 Accusation. A copy of Accusation No. AC-2000-7 is attached as Exhibit A and incorporated
11 herein by reference.

12 ADVISEMENT AND WAIVERS

13 5. Respondent has carefully read and fully understands the nature of the
14 charges and allegations in the Accusation and effects of this stipulation.

15 6. Respondent is fully aware of his legal rights in this matter, including the
16 right to a hearing on the charges and allegations in the Accusation, the right to be represented by
17 counsel, at his own expense, the right to confront and cross-examine the witnesses against him,
18 the right to present evidence and to testify on his own behalf and to the issuance of subpoenas to
19 compel the attendance of witnesses and the production of documents, the right to reconsideration
20 and court review of an adverse decision, and all other rights accorded by the California
21 Administrative Procedure Act and other applicable laws.

22 7. Respondent voluntarily, knowingly and intelligently waives and gives up
23 each and every right set forth above.

24 8. The parties agree that facsimile copies of this Stipulated Settlement,
25 Decision and Disciplinary Order, including facsimile signatures of the parties, may be used in
26 lieu of original documents and signatures and, further, that facsimile copies shall have the same
27 force and effect as originals.

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1 CULPABILITY

2 9. Respondent understands that the charges and allegations in the
3 Accusation, if proven at a hearing, constitute cause for imposing discipline upon his Certified
4 Public Accountant certificate.

5 10. Respondent admits the truth of each and every allegation in Accusation
6 No. AC-2000-7.

7 11. Respondent agrees that his Certified Public Accountant certificate is
8 subject to discipline and he agrees to be bound by the Board's imposition of discipline as set
9 forth in the Order below.

10 CONTINGENCY

11 12. This stipulation shall be subject to the approval of the Board. Respondent
12 understands and agrees that the Board of Accountancy's staff and counsel for complainant may
13 communicate directly with the Board regarding this stipulation and settlement, without notice to
14 or participation by Respondent. If the Board fails to adopt this stipulation as its Order, the
15 stipulation shall be of no force or effect, it shall be inadmissible in any legal action between the
16 parties, and the Board shall not be disqualified from further action in this matter by virtue of its
17 consideration of this stipulation.

18 13. In consideration of the foregoing admissions and stipulations, the parties
19 agree that the Board shall, without further notice or formal proceeding, issue and enter the
20 following Disciplinary Order:

21 DISCIPLINARY ORDER

22 **IT IS HEREBY ORDERED** that Certified Public Accountant No. 36758 issued
23 to Stuart D. Kramer, CPA is revoked. However the revocation is stayed and Respondent is
24 placed on probation for three (3) years on the following terms and conditions.

25 1. OBEY ALL LAWS

26 Respondent shall obey all federal, California, other states', and local laws,
27 including those rules relating to the practice of public accountancy in California.

28 ///

1 2. SUBMIT WRITTEN REPORTS

2 Respondent, within 10 days of completion of the quarter, shall submit quarterly
3 written reports to the Board on a form obtained from the Board. The respondent shall submit
4 such written reports and other declarations and verification of actions under penalty of perjury as
5 are required. These declarations shall contain statements relative to respondent's compliance
6 with all the terms and conditions of probation. Respondent shall immediately execute all release
7 of information forms as may be required by the Board or its representatives.

8 3. PERSONAL APPEARANCES

9 Respondent, during the period of probation, shall appear in person at
10 interviews/meetings as directed by the Board or its designated representatives, provided
11 notification is accomplished in a timely manner.

12 4. COOPERATE WITH PROBATION MONITORING

13 Respondent shall fully comply with the conditions of the probation imposed by
14 the Board and shall cooperate fully with representatives of the Board of Accountancy in its
15 monitoring and investigation of the respondent's compliance with probation terms and
16 conditions. Respondent shall at all times maintain current license status with the Board,
17 including during any period of suspension. If respondent's license is expired at the time the
18 Board's decision becomes effective, the license must be renewed within 30 days of the effective
19 date of the decision.

20 5. ETHICS COURSE

21 Respondent shall complete 8 hours of ethics education as part of the regular
22 license renewal process.

23 6. PRACTICE INVESTIGATION

24 Respondent shall be subject to, and shall permit, a practice investigation of the
25 respondent's professional practice. Such a practice investigation shall be conducted by
26 representatives of the Board, provided notification of such review is accomplished in a timely
27 manner.

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1 7. COMPLY WITH CITATIONS

2 Respondent shall comply with all final orders resulting from citations issued by
3 the Board of Accountancy.

4 8. TOLLING OF PROBATION FOR
5 OUT-OF-STATE RESIDENCE/PRACTICE

6 In the event respondent should leave California to reside or practice outside this
7 state, respondent must notify the Board in writing of the dates of departure and return. Periods of
8 non-California residency or practice outside the state shall not apply to the reduction of the
9 probationary period.

10 9. VIOLATION OF PROBATION

11 If respondent violates probation in any respect, the Board, after giving respondent
12 notice and an opportunity to be heard, may revoke probation and carry out the disciplinary order
13 that was stayed. If an Accusation or petition to revoke probation is filed against respondent
14 during probation, the Board shall have continuing jurisdiction until the matter is final, and the
15 period of probation shall be extended until the matter is final.

16 10. COST REIMBURSEMENT OR COMMUNITY SERVICE

17 Respondent shall reimburse the Board \$7,912.00 for its investigation and
18 prosecution costs. Payment shall be made in eight equal installments along with respondent's
19 quarterly written reports; the final payment being made with the 8th quarterly report.

20 If respondent provides evidence of financial hardship that is satisfactory to the
21 Board, the Board may, in its discretion, allow respondent to complete 100 hours of community
22 service in lieu of cost reimbursement to the Board.

23 In the event the Board approves community service in lieu of cost reimbursement,
24 then respondent shall participate in a community service program as directed by the Board or its
25 designee in which respondent provides free professional services on a regular basis to a
26 community or charitable facility or agency, amounting to a minimum of 100 hours. Such service
27 shall begin no later than 60 days after respondent is notified of the program and shall be
28 completed no later than 1 (one) year from the effective date of this order. Respondent is entirely

1 responsible for his performance in the program and the Board assumes neither express nor
2 implied responsibility for respondent's performance nor for the product or services rendered.

3 **11. SEVERABILITY**

4 Each term and condition of probation contained herein is a separate and distinct
5 term and condition. If any term and condition of this Stipulated Settlement, Decision and
6 Disciplinary Order, and/or any application thereof, be declared unenforceable in whole, in part,
7 or to any extent, the remainder of this Stipulated Settlement, Decision and Disciplinary Order,
8 and all other applications thereof, shall not be affected thereby. Each term and condition of this
9 Stipulated Settlement, Decision and Disciplinary Order shall separately be valid and enforceable
10 to the fullest extent permitted by law.

11 **12. COMPLETION OF PROBATION**

12 Upon successful completion of probation, respondent's license will be fully
13 restored.

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1 ACCEPTANCE

2 I have carefully read the above Stipulated Settlement and Disciplinary Order, I.
3 fully understand the terms and conditions and other matters contained therein, and I understand
4 the effect this stipulation will have on my Certified Public Accountant certificate. I enter into
5 this Stipulated Settlement voluntarily, knowingly and intelligently and agree to be bound by the
6 Disciplinary Order and Decision of the Board of Accountancy.

7
8 DATED: 5/11/00

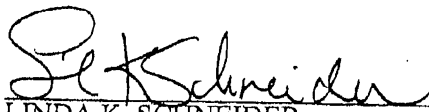
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10 
11 STUART D. KRAMER, CPA
12 Respondent

13
14 ENDORSEMENT

15 The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully
16 submitted for consideration by the Board of Accountancy of the Department of Consumer
17 Affairs.

18
19 DATED: 5/11/2000

20
21 BILL LOCKYER, Attorney General
22 of the State of California

23 
24 LINDA K. SCHNEIDER
25 Deputy Attorney General

26 Attorneys for Complainant

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9 STATE OF CALIFORNIA
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11 In the Matter of the Accusation) Case No. AC-2000-7
Against:)
12)
STUART D. KRAMER, CPA) ACCUSATION
13 13385 Calle Colina)
Poway, CA 92064-1606)
14 CPA Certificate No. 36758)
15 Respondent.)
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17
18 Complainant Carol B. Sigmann; as cause for disciplinary
19 action, alleges:

20 1. Complainant is the Executive Officer of the
21 California State Board of Accountancy ("Board") and makes and
22 files this Accusation solely in her official capacity.
23

24 LICENSE HISTORY

25 2. On or about January 28, 1983, the Board issued
26 Certified Public Accountant Certificate No. 36758 to Stuart D.
27 Kramer ("respondent").

28 Said certificate expired and was not valid, during the

1 Said certificate expired and was not valid, during the
2 following time periods: November 1, 1989 through October 21,
3 1990, November 1, 1991 through November 28, 1991, November 1,
4 1993 through July 11, 1994.

5 The certificate expired on November 1, 1995 and has not
6 been renewed since that date.

7
8 JURISDICTION

9 3. This Accusation refers to the following statutes of
10 the California Business and Professions Code ("Code"):

11 A. Section 118(b) provides that the expiration of a
12 license without the written consent of the Board shall not,
13 during any period in which it may be renewed, restored, reissued,
14 or reinstated, deprive the Board of its authority to institute or
15 continue a disciplinary proceeding against a licensee.

16 B. Section 5037(b) provides that a licensee must
17 furnish to his/her client or former client on request and
18 reasonable notice a copy of working papers of the licensee (of
19 certain categories) and "any accounting or other records
20 belonging to, or obtained from or on behalf of, the client which
21 the licensee removed from the client's premises or received for
22 the client's account."

23 C. Section 5050 provides:

24 "No person shall engage in the practice of public
25 accountancy in this State unless such person is the holder
26 of a valid permit to practice public accountancy issued by
27 the Board; ..."

28 D. Section 5051 provides in pertinent part that a

1 person is deemed to be engaging in the practice of public
2 accountancy who renders professional services generally to
3 clients for compensation in any or all matters relating to
4 accounting procedure and to the recording, presentation, or
5 certification of financial information or data (subd.(e)),
6 prepares statements as a part of bookkeeping operations for
7 clients (subd.(f)), prepares or signs as a tax preparer, tax
8 returns for clients (subd.(g)), prepares personal financial or
9 investment plans or provides to clients products or services of
10 others in implementation of personal financial or investment
11 plans (subd.(h)), or provides management consulting services to
12 clients (subd.(i)).

13 E. Section 5060 provides, in part, as follows:

14 " . . .

15 "(b) No person or firm may practice public accountancy
16 under any name other than the name under which the person or
17 firm holds a valid permit to practice issued by the Board.

18 "..."

19 F. Section 5100 provides that the Board may revoke,
20 suspend or refuse to renew the permit or certificate of any
21 licensee for unprofessional conduct, which conduct includes:

22 "(c) Dishonesty, fraud, or gross negligence in
23 the practice of public accountancy or in the
24 performance of the bookkeeping operations described in
25 Section 5052.

26 " . . .

27 "(f) Willful violation of this chapter or any rule or
28 regulation promulgated by the Board under the

1 authority granted under this chapter."

2 G. Section 5107 provides for the recovery by the Board
3 of its reasonable costs of investigation and prosecution,
4 including attorney's fees if respondent is found to have
5 violated, inter alia, Code section 5100(c).

6 4. This Accusation refers to the following sections of
7 Title 16, California Code of Regulations ("CCR"):

8 A. Section 3 provides as follows:

9 "Each licensee shall report to the Board in writing any
10 change in his or her address of record within 30 days after
11 the change."

12 B. Section 52.1 provides as follows:

13 "Willful failure or refusal by a licensee to comply
14 with a written notice of the Board, the Administrative
15 Committee, or any other designated committee to appear in
16 person constitutes a violation of Section 5100(f) of the
17 Accountancy Act. The written notice shall be delivered not
18 less than 10 working days in advance of the appearance. No
19 license shall be required to travel further than the
20 distance to the closest Board or Committee meeting scheduled
21 within 4 months of the date of the notice. Licensees who
22 fail to appear will be required to appear at the next
23 regularly scheduled meeting of the Board or Committee. The
24 written notice shall specify the place of such appearance."

25 C. Section 67 provides as follows:

26 "No permit holder shall practice as a principal under a
27 name other than his or her own name until such name has been
28 registered with the Board and approved by the Board as not

1 being false or misleading."

2 D. Section 68 provides as follows:

3 "A licensee, after demand by or on behalf of a
4 client, for books, records or other data, whether in
5 written or machine sensible form, that are the client's
6 records shall not retain such records. Unpaid fees do
7 not constitute justification for retention of client
8 records.

9 Although, in general, the accountant's working
10 papers are the property of the licensee, if such
11 working papers include records which would ordinarily
12 constitute part of the client's books and records and
13 are not otherwise available to the client, then the
14 information on those working papers must be treated the
15 same as if it were part of the client's books and
16 records."

17
18 CHARGES AND ALLEGATIONS

19 5. Respondent's license is subject to discipline,
20 pursuant to Code section 5050 in that between March 1997 and
21 October 1997, during a time period in which respondent did not
22 have a valid permit, he practiced public accountancy. Respondent
23 held himself out to client Nickolas Edward Cracolice as being
24 capable of providing accounting services to him. Respondent
25 undertook the obligation of preparing Mr. Cracolice's 1996 income
26 tax returns for him, but failed to ever complete the tax returns.

27 / / /

28 / / /

1 6. Respondent's license is further subject to
2 discipline pursuant to Code section 5100(c) by respondent's gross
3 negligence by agreeing to prepare Mr. Cracolice's 1996 income tax
4 returns, but never preparing those tax returns.

5 7. Respondent's license is further subject to
6 discipline pursuant to Code section 5100(f) on the grounds of
7 unprofessional conduct for willfully violating Code section
8 5037(b) in conjunction with CCR section 68 in that after numerous
9 and repeated requests by his client Nickolas Edward Cracolice,
10 respondent failed and refused to return the client's records to
11 him (personal financial papers and tax returns) which his client
12 needed so that he could engage another accountant to prepare his
13 1996 tax returns.

14 8. Respondent's license is further subject to
15 discipline pursuant to Code section 5060 in that respondent held
16 himself out to the public as a CPA by posting his name with the
17 notation "CPA" on the building directory where respondent's
18 office was located and also in a yellow page advertisement.
19 Also, on December 29, 1998, a paper posted on Mr. Kramer's office
20 door said "Accounting Offices of Stuart Kramer."

21 In addition, the Pacific Bell white pages for San Diego
22 indicated that respondent was also practicing as a partnership
23 (Kramer Herren & Co.); however, the partnership had never been
24 registered with the Board. The only partnership registered with
25 the Board pursuant to CCR section 67 that involved respondent was
26 "Kramer and Zucker;" a registration which had expired on
27 12/31/94.

28 9. Respondent's license is further subject to

1 discipline pursuant to Code section 5100(f) on the grounds of
2 unprofessional conduct for willfully violating CCR section 52.1
3 in that respondent failed to appear at an Administrative
4 Committee Investigative Hearing (hereinafter "ACIH") on June 24,
5 1999 after the Board requested him to appear. Respondent did not
6 appear at the ACIH, but left a voice mail message for the Board's
7 staff indicating that he could not attend the ACIH due to a
8 family illness. The Board's staff scheduled another ACIH for Mr.
9 Kramer to attend on August 26, 1999, but respondent did not
10 appear at that ACIH, either.

11 10. Respondent's license is further subject to
12 discipline pursuant to Code section 5100(f) on the grounds of
13 unprofessional conduct for willful violation of Title 16
14 California Code of Regulations section 3 in that respondent
15 failed to provide the Board of Accountancy with notice of change
16 of address. On July 19, 1999, the Board mailed a certified
17 letter to respondent at his address of record. The letter was
18 returned by the post office with the notation, "Unclaimed -
19 Notify Sender of New Address."

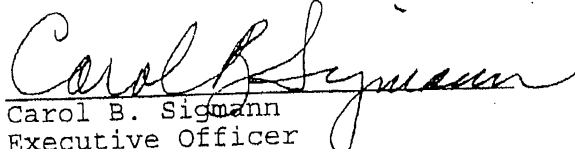
20
21 **PRAYER**

22 WHEREFORE, complainant requests that a hearing be held
23 on the matters herein alleged, and that following said hearing,
24 the Board issue a decision:

- 25 1. Revoking, suspending or otherwise imposing
26 discipline upon Certified Public Accountant
27 Certificate Number 36758 issued to Stuart D.
28 Kramer;

- 1 2. Awarding costs as provided by statute; and
2 3. Taking such other and further action as the Board
3 deems proper.

4
5 DATED: January 12, 2000.
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7 
8 Carol B. Sigmann
9 Executive Officer
10 Board of Accountancy
11 Department of Consumer Affairs
12 State of California
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28 Complainant